IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 18.04.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice J.A.K.SAMPATHKUMAR

Habeas Corpus Petition No.108 of 2006

Arunachalam ... Petitioner

vs.

1. State of Tamil Nadu
rep. by the Secretary
Department of Home,
Fort St. George,
Madras-600 009.

2. The District Magistrate
& District Collector,
Cuddalore District
Cuddalore. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to direct the respondents to produce the detenue namely Sundari, W/o. Anbalagan, before this Court, who is detained as per the order of detention passed by the second respondent in C3.D.O.No.31/2005 dated 27.10.05 and confined at Special Prison for Women, Vellore, and set her at liberty; and further direction to call for the records relating to the above said order and quash the same.

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For Petitioner : Mr.R. Sankarasubbu
For Respondents : Mr.Abudu Kumar Rajarathinam,
Govt. Advocate (Crl. Side)

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O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner herein, who is the cousin sister of the detenue by name Sundari, challenges the impugned order of detention, dated 27.10.2005 detaining her as 'Bootlegger' as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

2. Heard learned counsel for the petitioner as well as learned Government Advocate for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there was delay in disposal of the representation of the detenue, which vitiates the ultimate order of detention. In respect of the same, learned Government Advocate has produced the particulars, which show that the representation of the detenue, dated 23.11.2005, was received by the Government on 29.11.2005 and remarks were called for on 30.11.2005, reminder was sent on 13.12.2005. The particulars of the Collectorate show that the intimation was received from the Government on 05.12.2005 and remarks were, in turn, called for from the Sponsoring Authority on 06.12.2005, however, the same were received from the Sponsoring Authority only on 11.12.2005, sent to the Government on 12.12.2005 and the same was received by it on 15.12.2005. The File was submitted on 16.12.2005 and the same was dealt with by the Under Secretary and the Deputy Secretary on 16.12.2005 itself. Finally, the Minister for Prohibition and Excise passed orders on 19.12.2005. The rejection letter was prepared on 20.12.2005 and sent to the Prison on the same day and was served on the detenue on 28.12.2005.

4. As rightly pointed out, though remarks were called for from the Sponsoring Authority on 06.12.2005, the same were received by the Collectorate only on 11.12.2005. There is no explanation at all for taking time till 11.12.2005 by the Sponsoring Authority for collecting the remarks. We hold that, in the absence of proper explanation by the person concerned, the delay is on the higher side, which caused prejudice to the detenue in considering his representation effectively. On this ground, we quash the impugned order of detention.

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5. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is quashed. The detenue is directed to be set at liberty forthwith from the custody unless she is required in some other case or cause.

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Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

To

1. The Secretary to Government of Tamilnadu,
   Department of Home, Fort St. George,
   Chennai 600 009.

2. The District Collector and District Magistrate,
   Cuddalore District at Cuddalore.

3. The Superintendent,
   Special Prison for Women
   Vellore.
   (In duplicate for
   communication to the detenue)

4. The Joint Secretary to
   Government, Public
   (Law and Order) Department,
   Fort St. George, Chennai-9.

5. The Public Prosecutor,
   High Court, Madras.

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HCP. No.108 of 2006

MAB(CO)
RVL 26.04.2006

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